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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 3:22-mj-70620 MAG
)	
Plaintiff,)	[PROPOSED] DETENTION ORDER
)	
v.)	
)	
IVAN ANTONIO DIAZ-VELASQUEZ,)	
)	
Defendant.)	

On May 18, 2022, defendant IVAN ANTONIO DIAZ-VELASQUEZ came before the Court for a detention hearing. (He had previously appeared on a Rule 5 Notice following his arrest in this district for allegedly violating the conditions of supervised release following a conviction in the District of Arizona (Case No. CR-18-02289-001-TUC-JGZ), and had waived his right to an identity hearing.) The defendant was present in custody and represented by Assistant Federal Public Defender Gabriela Bischof. Assistant United States Attorney Andrew M. Scoble appeared for the government. The government moved for detention and the defendant opposed. At the hearing, counsel submitted proffers and argument regarding detention. The Court also had the benefit of the Presentence Report (PSR) from the underlying case in the District of Arizona.

Upon consideration of the facts, proffers and arguments presented, and for the reasons stated on

1 the record, the Court finds by a preponderance of the evidence that no condition or combination of
2 conditions will reasonably assure the appearance of the person as required, and finds by clear and
3 convincing evidence that no condition or combination of conditions will reasonably assure the safety of
4 any other person and the community. Accordingly, the defendant must be detained pending removal to
5 the District of Arizona.

6 The present order supplements the Court's findings and order at the detention hearing and serves
7 as written findings of fact and a statement of reasons as required by Title 18, United States Code,
8 Section 3142(i)(1). As noted on the record, the Court makes the findings set forth below as the basis for
9 its conclusion. The findings are made without prejudice to the defendant's right to seek review of
10 defendant's detention, or file a motion for reconsideration if circumstances warrant it.

11 The Court notes, as a preliminary matter, that the defendant bears the burden of establishing that
12 he represents neither a flight risk nor a danger to the community. Fed. R. Crim. P. 32.1. The Court
13 finds that he has not met that burden. The record reveals that the defendant has multiple convictions for
14 illegal re-entry, and a felony drug trafficking conviction in 2012 in Salt Lake City, Utah. In addition,
15 the government proffered two San Francisco Police Department reports detailing the defendant's arrests
16 in the Tenderloin District in August 2021 and again in April 2022 for possession for sale of controlled
17 substances, including fentanyl. This record demonstrates that the defendant poses a risk of danger to the
18 public. Additionally, the Court has to conclude that the defendant poses a risk of flight should he be
19 released. While the Court appreciates the defendant's proffered motivation of making money in order to
20 send it to family members in Honduras for purchase of medication, the defendant's conduct suggests
21 that he is willing to engage in criminal conduct in order to fulfill that purpose.

22 Based on the record, the Court finds by a preponderance of the evidence that no condition or
23 combination of conditions will reasonably assure the appearance of the defendant as required, and by
24 clear and convincing evidence that no condition or combination of conditions will reasonably assure the
25 safety of any other person and the community, should the defendant be released on bail to make his own
26 way back to the District of Arizona for proceedings on the Form 12 there.

27 Pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

28 1. The defendant be, and hereby is, committed to the custody of the Attorney General for

1 removal forthwith to the District of Arizona and confinement in a corrections facility separate, to the
2 extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

3 2. The defendant be afforded reasonable opportunity for private consultation with counsel;
4 and

5 3. On order of a court of the United States or on request of an attorney for the government,
6 the person in charge of the corrections facility in which the defendant is confined shall deliver the
7 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a
8 court proceeding.

9 IT IS SO ORDERED.

10 DATED: May 20, 2022

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13 HON. JOSEPH C. SPERO
14 United States Chief Magistrate Judge
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